

**REMARKS**

The Applicants have carefully considered the official action mailed on April 8, 2009. By way of this response, the Applicants have amended claims 1, 4, 6-9, 11-17, 20, and 22-24. The Applicants submit that the foregoing amendments are fully supported by the Applicants' originally filed application. No new matter has been added. In view of the foregoing amendments and the following remarks, the Applicants respectfully traverse the rejections and submit that all claims are in condition for allowance. Reconsideration of this application is respectfully requested.

**I. The Rejections under 35 U.S.C. § 101**

In the official action, claims 1-8 were rejected under 35 U.S.C. § 101 as directed to non-statutory subject matter. In view of the foregoing amendments to independent claim 1, the Applicants respectfully submit that claims 1-8 comply with § 101. Independent claim 1 recites storing a generational age value in association with an equivalence class in a memory operatively associated with a processor configured to execute instructions associated with the equivalence class. Claim 1 is tied to a particular apparatus, namely a processor that is configured to execute instructions associated with the equivalence class. The recited processor is a particular apparatus because it executes instructions that are particularly associated with the equivalence class of the method recited in claim 1. Accordingly, the Applicants respectfully submit that independent claim 1 and all claims dependent thereon are directed to statutory subject matter in compliance with § 101, and respectfully request withdrawal of the § 101 rejections therefrom.

**II. The Rejections under 35 U.S.C. § 103**

In the official action, claims 1-24 were rejected under 35 U.S.C. § 103(a) as unpatentable over Hertling et al. (U.S. 2002/0188935) in view of Ruf (U.S.

6,665,865). The Applicants maintain their position set forth in the Applicants' previous response filed on January 22, 2009, and preserve their right to pursue original claims 1-24 based on such grounds during subsequent prosecution. However, in the interest of advancing this application to allowance, the Applicants have made the foregoing claim amendments and submit that the claims as amended are also allowable over the suggested combination of Hertling et al. and Ruf.

**A. Independent Claim 1**

Independent claim 1 is directed to a method and recites, among other things, storing a generational age value in association with an equivalence class in a memory operatively associated with a processor configured to execute instructions associated with the equivalence class and incrementing the generational age value stored in association with the equivalence class in response to the cloning of the equivalence class. Neither Hertling et al. nor Ruf, alone, or in combination teach or suggest such a method.

Hertling et al. describe identifying outdated versions of class files based on revision number or creation date to replace those outdated versions with more recent versions. *Hertling et al.*, ¶ 23. However, a revision number or a creation date does not constitute incrementing a generational age value stored in association with an equivalence class in response to the cloning of the equivalence class as recited in claim 1. The revision numbers of Hertling et al. track different versions of class files, while claim 1 recites cloning an equivalence class and, thus, the cloned equivalence class is the same as the equivalence class from which it was cloned, not a different version as in Hertling et al. Therefore, the revision numbers of Hertling et al. do not constitute generational age values pertaining to clonings of equivalence classes but instead to different versions of class files.

Ruf describes determining whether a procedure signature has been encountered before based on comparing the procedure signature with other procedure signatures. *Ruf*, 15:19-16:3. However, comparing procedure signatures as described by Ruf does not constitute incrementing a generational age value stored in association with an equivalence class in response to the cloning of the equivalence class as recited in claim 1.

In view of the foregoing, the Applicants respectfully submit that independent claim 1 and all claims dependent thereon are in condition for allowance.

**B. Independent Claim 9**

Independent claim 9 is directed to a system and recites, among other things, a processor to store a generational age value in association with an equivalence class in a memory and to increment the generational age value stored in association with the equivalence class in response to the cloning of the equivalence class. Neither Hertling et al. nor Ruf, alone, or in combination teach or suggest such a system. Accordingly, the Applicants respectfully submit that independent claim 9 and all claims dependent thereon are in condition for allowance.

**C. Independent Claim 17**

Independent claim 17 is directed to a machine accessible medium and recites, among other things, instructions that, when executed, cause a machine to store a generational age value in association with an equivalence class and to increment the generational age value stored in association with the equivalence class in response to the cloning of the equivalence class. Neither Hertling et al. nor Ruf, alone, or in combination teach or suggest such a machine accessible medium. Accordingly, the Applicants respectfully submit that independent claim 17 and all claims dependent thereon are in condition for allowance.

### **III. Conclusion**

The Applicants respectfully request reconsideration of this application. In view of the foregoing, the Applicants submit that this application is in condition for allowance. If there are any remaining matters that the Examiner would like to discuss, the Examiner is invited to contact the undersigned representative at the telephone number set forth below.

In general, the Office action makes various statements regarding the pending claims and the cited references that are now moot in light of the above. Thus, the Applicants will not address such statements at the present time. However, the Applicants expressly reserve the right to challenge such statements in the future should the need arise (e.g., if such statement should become relevant by appearing in a rejection of any current or future claim).

The Commissioner is authorized to charge any deficiency in the submitted payment toward payment of any fee due for the filing of this paper to deposit account number 50-2455. In addition, if a petition for an extension of time under 37 CFR 1.136(a) is necessary to maintain the pendency of this case and is not otherwise requested in this case, the Applicants request that the Commissioner consider this paper to be a petition for an appropriate extension of time and hereby authorize the Commissioner to charge the fee as set forth in 37 CFR 1.17(a) corresponding to the needed extension of time to the above deposit account.

**Respectfully submitted,**

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